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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/697,176

10/30/2003

Richard J. Lanigan

1062/D73

8157

2101 7590 06/15/2007

BROMBERG & SUNSTEIN LLP

125 SUMMER STREET

BOSTON, MA 02110-1618

EXAMINER

DWIVEDI, VIKANSHA S

ART UNIT

PAPER NUMBER

3746

MAIL DATE

DELIVERY MODE

06/15/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/697,176	Applicant(s) LANIGAN ET AL.	
	Examiner Vikansha S. Dwivedi	Art Unit 3746	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 May 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 and 22-27 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-14 and 22-27 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 30 October 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>See Continuation Sheet</u> . | 6) <input type="checkbox"/> Other: _____ |

Continuation of Attachment(s) 3). Information Disclosure Statement(s) (PTO/SB/08), Paper No(s)/Mail Date :5/10/2007, 9/14/2006, 12/15/2005, 7/18/2005, 7/29/2004.

DETAILED ACTION

Information Disclosure Statement

Applicant should note that the large number of references in the attached IDS have been considered by the examiner in the same manner as other documents in Office search files are considered by the examiner while conducting a search of the prior art in a proper field of search. **See MPEP 609.05(b)**. Applicant is requested to point out any particular references in the IDS which they believe may be of particular relevance to the instant claimed invention in response to this office action.

Election/Restrictions

Applicant's election without traverse of claims 1-14 and 21-27 in the reply filed on 3/30/2007 is acknowledged.

Drawings

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference character(s) not mentioned in the description: reference numerals 742, 740 and 741 are few examples of reference numerals that are present in the drawings but are not described in the specification. Corrected drawing sheets in compliance with 37 CFR 1.121(d), or amendment to the specification to add the reference character(s) in the description in compliance with 37 CFR 1.121(b) are required in reply to the Office action to avoid abandonment of the

Art Unit: 3746

application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 1, 24-7, 9, 10, 12, 13, 14, 21 and 25 are rejected under 35 U.S.C. 112, first paragraph, because the specification, while being enabling for force assembly, movable member and membrane, does not reasonably provide enablement for the same. The specification does not enable any person skilled in the art to which it pertains, or with which it is most nearly connected, Specification does not provide information on the force assembly as being a movable member capable of applying force to the pump cassette, to press the pump cassette against the control assembly but does not make very clear what part or parts of the invention it pertains to, similarly a movable member is described as a member positioned between the back plate and the frame but is not shown in the drawings, the invention commensurate in scope with these

claims. With regard to the membrane it is disclosed that bezel gasket 612 includes membranes that correspond to the chamber cavities and valve cavities, chamber cavities are clear but it is not clear what are the valve cavities.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

Claims 1-5, 8-11, 21-24, 26 and 27 are rejected under 35 U.S.C. 102(b) as being anticipated by DeMeo et al (U.S. Patent number 4,798,580).

DeMeo discloses a system for pumping fluid using a pump cassette (50), the system comprising: a control assembly (latch, latch supports, cam bar etc. as seen in figure 8) for operating the pump cassette, and a force assembly (roller, tubing assembly) having a movable member (roller/tubing) capable of applying force to the pump cassette to press the pump cassette against the control assembly (figure 8); wherein the movable member (roller/tubing) includes an expandable member (tubing) capable of expanding to press the pump cassette against the control assembly; wherein the expandable member is a bladder (tubing is a bladder (bodily sac for liquid or gas)); wherein the force assembly includes a door (52), the movable member (roller) attached to the door; wherein the force assembly includes a back plate and a frame, the movable member positioned between the back plate and the frame (seen in figure 7); further including a

cassette receptacle (20b and 70b) for receiving the pump cassette (50); wherein the force assembly is movably coupled to the control assembly to allow access to the cassette receptacle (figure 7 and 8); wherein the cassette receptacle (20b and 70b) is movably coupled to the force assembly 9figure 8).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 6 is rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over DeMeo et al (U.S. Patent number 4,798,580). In the summary of invention DeMeo discloses commonly employed surgical instruments such as electro-mechanical or pneumatically driven cutters and phacoemulsification instruments. So, at the time of invention it would have been obvious to one of ordinary skill in the art to have a pneumatic circuit for controlling the movable member as commonly known and used phenomenon in the art.

Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over DeMeo et al in view of Beuchat (5267956).

As explained above DeMoe discloses the claimed invention substantially except the teaching for a movable member being coupled to a piston. Beuchat discloses a surgical cassette wherein the pump 516 may be a reciprocating piston pump. It would have been obvious to one of ordinary skill in the art at the time of invention to modify

DeMoe in view of Beuchat for the purposes of withdrawing fluid from fluid conduit and expelling the fluid through discharge line.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Vikansha S. Dwivedi whose telephone number is 571-272-7834. The examiner can normally be reached on M-F, 8-4.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anthony Stashick can be reached on 571-272-4561. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


VSD


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